THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION No:3004 of 1995

DATED 28-02-2006

Between:

T.V.Venugopal.

..... PETITIONER

AND

University of Hyderabad and another.

.....RESPONDENTS

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ORDER:

Aggrieved by the action of the respondents in terminating his services and seeking a direction that his services be regularized as a Junior Office Assistant, the present writ petition is filed.

Facts, to the extent necessary, are that the petitioner was appointed as a Junior Office Assistant-cum-Typist on 20-01-1993 on a consolidated pay of Rs.1,000/- per month for a period of six months. After expiry of the six months period, the services of the petitioner were extended for an overall period of six further months, with effect from 25-07-1993, vide proceedings dated 19-08-1993. Consequent upon the Distant Education Department coming into existence, the petitioner was transferred to the said Department on the same terms and conditions. Again, vide proceedings dated 30-04-1994, the petitioner was continued for another period of six months with effect from 25-01-1994 to 24-07-1994 on an enhanced remuneration of Rs.1,500/- per month with retrospective effect from 01-03-1994. Again another order of extension was given for a period of six months from 28-07-1994, vide order dated 22-10-1994. The petitioner's services were terminated vide proceedings, dated 09-02-1995. The grievance of the petitioner herein is that while

his services were terminated, employees, who were appointed subsequent to him, were continued in the services of the University on daily wages/N.M.R. basis/temporary basis. The petitioner would contend that terminating his services without notice was in gross violation of principles of natural justice.

In the counter affidavit filed on behalf of the University, it is stated that the petitioner was appointed on adhoc basis initially for a period of six months without undergoing a regular process of selection. It is stated that his adhoc appointment was extended for a period of six months and that he was given appointment for a further period of six months purely on adhoc basis. Reference is made to the specific condition in the order of appointment of the petitioner, that his appointment is purely temporary and adhoc, that his services were liable to be terminated without any further notice on expiry of his term of appointment and that he would have no claim for further continuation in service on the expiry of his term of appointment. In the proceedings, dated 22-10-1994, and in accordance there with, the petitioner's services were terminated on completion of the six months period from 28-07-1994 i.e., on 08-02-1995.

It is well settled that a temporary or an adhoc employee has no right to continue in service and since the order of termination does not cast any stigma and has been made in accordance with the conditions stipulated in the earlier order of appointment, that his services were liable to be terminated without notice, it cannot be said that failure to put the petitioner on notice would vitiate the order of termination, more so, since it is not even petitioner's case that consequent upon his termination, he was replaced by another adhoc employee.

With regards the plea of discrimination except for stating that juniors to him were appointed, the petitioner has not chosen to implead them as respondents in the

writ petition. The Supreme Court in ***CHANDIGARH ADMINISTRATION*** v. ***JAJGIT SINGH*** held thus:

> "….. Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extra-ordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal / unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again. The illegal / unwarranted action must be corrected, if it can be done according to law - indeed, wherever it is possible, the court should direct the appropriate authority to correct such wrong orders in accordance with law - but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the court is not condoning the earlier illegal act / order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioner's case is similar to the other person's case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the court and seeking the relief. It is not more appropriate and convenient to examine the entitlement of the petitioner before the court to the relief asked for in the facts and circumstances of his case than to enquire into correctness of the order made or action taken in another person's case, which other person is not before the Court nor is his case. In our considered opinion, such a course - barring exceptional situations - would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be

> repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents as understood in the judicial world…."

In view of the law laid down by the Apex Court, in Jagjit Singh (supra 1) the plea of discrimination must also fail. The writ petition is accordingly dismissed. No order as to costs.

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28-03-2006

Prv